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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/796,042

03/10/2004

Wayd A. McNally

16385-US

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09/25/2006

MARKS & CLERK

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STATION B

OTTAWA, ON K1P 5S7

CANADA

EXAMINER

FAYYAZ, NASHMIYA SAQIB

ART UNIT

PAPER NUMBER

2856

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/796,042

Applicant(s)

MCNALLY, WAYD A.

Examiner

Nashmiya S. Fayyaz

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 9-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/24/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group II in the reply filed on 7/18/06 is acknowledged.
2. Claims 2 and 9-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/18/06.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3, 4 and 6-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Speasl et al- US Patent # 6,901,971. As to claim 1, Speasl et al disclose a transportable container with an internal environment monitor for monitoring the characteristics of transportable containers including a plurality of sensors 204/404(a-c) for monitoring environmental conditions, processor (sensor

nodes 414a-414c (see fig. 4)) and transceiver 408 for reporting to receiver 410, see figs. 2-4. As to claim 3, the housing mimics the shape of a SMIF Smart Pod/FUOP. As to claim 4, as best understood, note fig. 4 which depicts power supply 406 within the "left" second portion and the "right" first portion where the two "portions" are retained via the walls of the pod. As to claim 6, note fig. 4 which illustrates temperature, accelerometer and humidity sensors. As to claim 7, note col. 5, lines 48-62, indicating that the accelerometer could be a piezoelectric sensor. As to claim 8, again note fig. 4 which depicts 3 single axis accelerometers.

5. Claims 1 and 3-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Wallace- US Patent # 6,817,757. As to claim 1, Wallace discloses a food information monitoring system including housing (sensor units 20) with plural sensors 120/121, processor (microprocessor 22) and transceiver (wireless communications system 28), see fig. 2. As to claim 3, the sensor units to monitor conditions in food receptacles 110 indicating the shape would inherently be such that it mimics containers for storage in such a receptacle. As to claim 4, as best understood, battery pack 142 located in an "upper portion" of the housing and while the sensors and processor and transceiver are in a lower portion where both portions would be sealingly engaged via the walls of the unit 20. As to claim 5, as best understood, each unit is mounted on a single printed board, as

indicated in col. 10, lines 30-46, where plural units would be on plural boards, as in fig. 1. As to claim 6, the sensors are temperature sensors.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

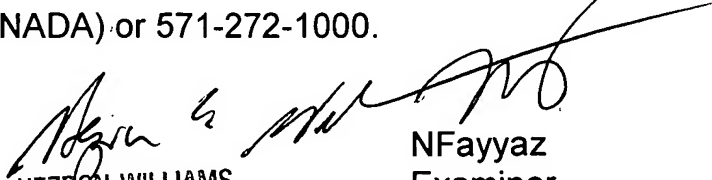
7. Claims 4, 5 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 4, the recitation "a." appears to be incomplete. In claim 5, it is unclear what "retaining means" provide a sealed engagement between the "first and second housing portions". In the specification, there is reference to a retaining ring for securing the electronics package, however, there is no disclosure regarding first and second housing portions being in sealed engagement. As to claim 5, it is unclear how the printed circuit boards are related to the device claimed in claims 1-4 and how they are "soldered at angles to each other". Note, no further explanation is given or any illustration given as to such. As to claim 8, "axe" is unclear on line 2.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nashmiya S. Fayyaz whose telephone

number is 571-272-2192. The examiner can normally be reached on Mondays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

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Examiner
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nf
9/18/06